

least one processor (26) in communication with at least one object detector (16) and receiving space occupancy information therefrom, wherein said at least one processor (26) is also in communication with a data distribution network (25, as shown in Figure 1)..."

Applicant respectfully submits that, contrary to the Examiner's characterization, Schmitt does not disclose "a space vacancy notification system comprising at least one processor in communication with said at least one object detector and receiving space occupancy information therefrom, wherein said at least one processor is also in communication with a **data distribution network**" as claimed in claimed.

Rather Schmitt discloses a "central cite 25" (FIG. 1, col. 3, line 12) and a "central cite computer 26" which processes requests. Neither element (25 or 26) of Schmitt anticipates the use of a "data distribution network" as claimed. Contrary to the present invention, Schmitt recites "the information is transmitted by the central cite computer 26 in a parking space availability message 40 **to the vehicle** which requested the information." Applicant submits that Schmitt does not anticipate a data distribution network as claimed in the present application. Also, FIG. 1 of Schmitt illustrates the central cite 25 transmitting directly to a vehicle 30 and does not anticipate a data distribution network as claimed. The network element of the present invention is an essential element which provides the advantageous features of accessibility by home computers, handheld computers cell phones etc. (see FIG. 1 of the present application). Applicant submits that Schmitt does not anticipate this beneficial element.

Regarding claim 10, the Examiner indicated that "Schmitt et al. discloses the network is a publicly accessible network (25, as shown in Figure 1)." Applicant respectfully submits that, contrary to the Examiner's characterization, as discussed above Schmitt does not disclose the important claimed element of "a publicly accessible network."

The Federal Circuit has clearly ruled that anticipation under 35 U.S.C. §102 requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim. Linderman Maschinenfabrik GMBH v. American Hoist and Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984). Applicants respectfully submit that because each and every element in any of claims 1-4, 9-10, 12 and 16, arranged as in the claims, are not

present in Schmitt, the Patent Office has not made out a prima facie case of anticipation under 35 U.S.C. §102(b). Accordingly the Patent Office's rejections of claims 1-4, 9-10, 12 and 16 under 35 U.S.C. §102(b) are improper and should be withdrawn.

Rejections Under 35 U.S.C. §103(a)

The Examiner rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Schmitt et al. in view of U.S. Patent No. 6,107,942 to Yoo et al. (hereinafter referred to as "Yoo"). Applicant respectfully traverses the Examiner's rejection because neither Schmitt or Yoo taken alone or when combined teach or suggest the claimed element of a data distribution network in communication with a processor as claimed.

The Examiner rejected claims 6-8, 11, 13-15 and 17-20 under 35 U.S.C. 103(a) over Schmitt. Applicant respectfully traverses the Examiner's rejection.

Regarding claims 6-7, Applicant submits that, as set forth above, Schmitt does not teach or suggest "at least one processor in communication with said at least one object detector and receiving space occupancy information therefrom, wherein said at least one **processor is also in communication with a data distribution network.**" as claimed.

Regarding claims 8 and 11, the Examiner indicated that "Schmitt et al. discloses the data distribution network in the form of a central site (25) that is used to receive a change data message (20) from the parking meter (15) and transmit a parking space availability message (40) to a parking requested vehicle (30, as shown in Figure 1)." Applicant respectfully submits that, contrary to the Examiner's characterization, Schmitt does not teach or suggest a "data distribution network" as claimed. As discussed above, the central cite (25) of Schmitt is does not teach or suggest a network, rather it suggests direct communication between a processor component 26 and a vehicle 30.

The Examiner further indicated that it would have been obvious "that the Internet can be used instead the (sic.) central cite (25) to enable the computer (26) and on-board computer (31) communicates (sic.) to each other for exchanging information about the parking availability." Applicant respectfully submits that nothing in Schmitt or in the knowledge of persons having

ordinary skill in the art taken alone or when combined teach or suggest using the Internet as claimed in claims 8 and 11.

By basing the rejection on common knowledge in the art, the Examiner is effectively taking official notice of facts outside of the record which are capable of instant and unquestionable demonstration of being "well-known" in the art. Applicant respectfully traverses said taking of official notice.

Applicant further submits that by disclosing a direct communication (depicted as a direct wireless link in FIG. 1) between a central cite 25 and vehicle 30, Schmitt actually teaches away from using any network, data distribution network, publicly accessible network or internet as claimed in the present application.

Regarding claims 13-15 and 17-20, Applicant has combined claim 17 and 18 into claim 17 as amended herein which includes a step of "communicating said active street-map to a network." Applicant respectfully traverses the Examiner's rejections of claims 13- 15 and 17 -20 under 35 U.S.C. 103(a) for the reasons set forth above with respect to claims 1 and 9.

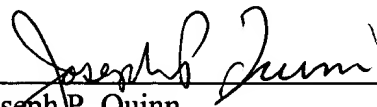
"In order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on Applicant's disclosure." MPEP 2142 citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Since no prior art reference or references when combined teach or suggest all the claim limitations of claims 5, 6-8, 11, 13-15, 17(amended) or 19-20, Applicant respectfully submits that the Examiner has not made out a case of prima facie obviousness under 35 U.S.C. 103(a). Accordingly the Examiner's rejections under 35 U.S.C. 103(a) should be withdrawn.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.

Respectfully submitted,

October 22, 2002
Dated:



Joseph P. Quinn
Reg. No. 45,029
Customer No. 21710
Attorney for Applicant
BROWN RUDNICK BERLACK ISRAELS LLP
Box IP, 18th Floor
One Financial Center
Boston, MA 02111
Tel: 1-617-856-8396
Fax: 1-617 856-8201

APPENDIX I

17. (Amended) A method of notifying motorists of vacant parking space locations comprising the steps of:

- detecting the presence or absence of a vehicle in at least one identifiable parking space;
- generating a signal to represent the presence or absence of a vehicle in at said at least one identifiable parking space;
- associating said signal with a respective space identifier;
- interpreting said signal along with said respective space identifier as space identifier data;
- integrating said space identifier data with digital street-map data describing an area including said at least one identifiable parking space to form an active street-map [.]; and
- communicating said active street-map to a network.